

Art Unit: 1616

NOTICE OF NON-REPOSITIVE AMENDMENT

Newly submitted claims are directed to a method of making an implantable medical apparatus by attaching monomers to polysaccharides to make polysaccharide macromers and polymerizing the macromers in an organic solvent into a three-dimensional crosslinked hydrogel that defines a hollow cylinder or encapsulates an inert medical device directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The claims previously prosecuted were directed to a method of forming a layer on at least a portion of a surface of a biocompatible medical device which required the use of synthetic anionic polysaccharide polymers, having an average length of at least two polysaccharides covalently bonded per polymer, to form the layer, where the polysaccharide polymers were prepared by chemically reacting polysaccharide complexes in an organic solvent in which the complexes contain quaternary ammonium cations ionically bound to the polysaccharides and at least one functional group capable for forming a covalent bond.

The newly submitted claims are directed to a method of making an implantable medical apparatus which require attaching monomers to polysaccharides to make polysaccharide macromers whereas the previously prosecuted claims are directed to a method of forming a layer on a biocompatible device which unlike the newly submitted claims require the use of synthetic anionic polysaccharide polymers with a specified length in which said polymers contain quaternary ammonium cations and at least one functional group capable of forming a covalent bond and unlike the newly submitted claims do not require attaching of monomers to polysaccharides to make polysaccharide macromers, the formation of a medical apparatus which is implantable or the formation of cylinder or an encapsulated inert medical device.

Art Unit: 1616

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 34, 41, 42, 49, 56, 57, 61, 64-67, 95-101 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 9/15/2008 amending and canceling all claims drawn to the elected invention and presenting only amended and new claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Conclusion

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Wednesday and Thursday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
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Application/Control Number: 10/751,706

Page 4

Art Unit: 1616

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/Johann R. Richter/

Supervisory Patent Examiner, Art Unit 1616